

1 AMENDMENT TO HOUSE BILL 621

2 AMENDMENT NO. _____. Amend House Bill 621 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Commerce and Economic
5 Opportunity Law of the Civil Administrative Code of Illinois
6 is amended by changing Section 605-332 as follows:

7 (20 ILCS 605/605-332)

8 Sec. 605-332. Financial assistance to energy generation
9 facilities.

10 (a) As used in this Section:

11 "New electric generating facility" means a
12 newly-constructed electric generation plant or a newly
13 constructed generation capacity expansion at an existing
14 facility, including the transmission lines and associated
15 equipment that transfers electricity from points of supply to
16 points of delivery, and for which foundation construction
17 commenced not sooner than July 1, 2001, which is designed to
18 provide baseload electric generation operating on a
19 continuous basis throughout the year; and:

20 (1) which has an aggregate rated generating
21 capacity of at least 400 megawatts for all new units at
22 one site, uses coal or gases derived from coal as its

1 primary fuel source, and supports the creation of at
2 least 150 new Illinois coal mining jobs;

3 (2) uses coal gasification or integrated
4 gasification-combined cycle units that generate
5 electricity or chemicals, or both, and that supports the
6 creation of Illinois coal-mining jobs;

7 (3) is a public utility that is owned and operated
8 by any political subdivision or municipal corporation or
9 that is owned by such an entity and is operated by any
10 lessee or any operating agent of that entity and that
11 supports the creation of Illinois coal-mining jobs;

12 (4) is owned in whole or in part by an electric
13 cooperative, as defined in Section 3.4 of the Electric
14 Supplier Act, and supports the creation of Illinois
15 coal-mining jobs; or

16 (5) is a State-owned facility and supports the
17 creation of Illinois coal-mining jobs.

18 "Eligible business" means an entity that proposes to
19 construct a new electric generating facility and that has
20 applied to the Department to receive financial assistance
21 pursuant to this Section. With respect to use and occupation
22 taxes, wherever there is a reference to taxes, that reference
23 means only those taxes paid on Illinois-mined coal used in a
24 new electric generating facility.

25 "Department" means the Illinois Department of Commerce
26 and Economic Opportunity Community-Affairs.

27 (b) The Department is authorized to provide financial
28 assistance to eligible businesses for new electric generating
29 facilities from funds appropriated by the General Assembly as
30 further provided in this Section.

31 An eligible business seeking qualification for financial
32 assistance for a new electric generating facility, for
33 purposes of this Section only, shall apply to the Department
34 in the manner specified by the Department. Any projections

1 provided by an eligible business as part of the application
2 shall be independently verified in a manner as set forth by
3 the Department. An application shall include, but not be
4 limited to:

5 (1) the projected or actual completion date of the
6 new electric generating facility for which financial
7 assistance is sought;

8 (2) copies of documentation deemed acceptable by
9 the Department establishing either (i) the total State
10 occupation and use taxes paid on Illinois-mined coal used
11 at the new electric generating facility for a minimum of
12 4 preceding calendar quarters or (ii) the projected
13 amount of State occupation and use taxes paid on
14 Illinois-mined coal used at the new electric generating
15 facility in 4 calendar year quarters after completion of
16 the new electric generating facility. Bond proceeds
17 subject to this Section shall not be allocated to an
18 eligible business until the eligible business has
19 demonstrated the revenue stream sufficient to service the
20 debt on the bonds; and

21 (3) the actual or projected amount of capital
22 investment by the eligible business in the new electric
23 generating facility.

24 The Department shall determine the maximum amount of
25 financial assistance for eligible businesses in accordance
26 with this paragraph. The Department shall not provide
27 financial assistance from general obligation bond funds to
28 any eligible business unless it receives a written
29 certification from the Director of the Bureau of the Budget
30 (now Governor's Office of Management and Budget) that 80% of
31 the State occupation and use tax receipts for a minimum of
32 the preceding 4 calendar quarters for all eligible businesses
33 or as included in projections on approved applications by
34 eligible businesses equal or exceed 110% of the maximum

1 annual debt service required with respect to general
2 obligation bonds issued for that purpose. The Department may
3 provide financial assistance not to exceed the amount of
4 State general obligation debt calculated as above, the amount
5 of actual or projected capital investment in the energy
6 generation facility, or \$100,000,000, whichever is less.
7 Financial assistance received pursuant to this Section may be
8 used for capital facilities consisting of buildings,
9 structures, durable equipment, and land at the new electric
10 generating facility. Subject to the provisions of the
11 agreement covering the financial assistance, a portion of the
12 financial assistance may be required to be repaid to the
13 State if certain conditions for the governmental purpose of
14 the assistance were not met.

15 An eligible business shall file a monthly report with the
16 Illinois Department of Revenue stating the amount of
17 Illinois-mined coal purchased during the previous month for
18 use in the new electric generating facility, the purchase
19 price of that coal, the amount of State occupation and use
20 taxes paid on that purchase to the seller of the
21 Illinois-mined coal, and such other information as that
22 Department may reasonably require. In sales of
23 Illinois-mined coal between related parties, the purchase
24 price of the coal must have been determined in an arms-length
25 transaction. The report shall be filed with the Illinois
26 Department of Revenue on or before the 20th day of each month
27 on a form provided by that Department. However, no report
28 need be filed by an eligible business in a month when it made
29 no reportable purchases of coal in the previous month. The
30 Illinois Department of Revenue shall provide a summary of
31 such reports to the Governor's Office of Management and
32 Budget Bureau-of-the-Budget.

33 Upon granting financial assistance to an eligible
34 business, the Department shall certify the name of the

1 eligible business to the Illinois Department of Revenue.
2 Beginning with the receipt of the first report of State
3 occupation and use taxes paid by an eligible business and
4 continuing for a 25-year period, the Illinois Department of
5 Revenue shall each month pay into the Energy Infrastructure
6 Fund 80% of the net revenue realized from the 6.25% general
7 rate on the selling price of Illinois-mined coal that was
8 sold to an eligible business.

9 (Source: P.A. 92-12, eff. 7-1-01; 93-167, eff. 7-10-03;
10 revised 8-23-03.)

11 Section 10. The Illinois Enterprise Zone Act is amended
12 by changing Section 5.5 as follows:

13 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

14 Sec. 5.5. High Impact Business.

15 (a) In order to respond to unique opportunities to
16 assist in the encouragement, development, growth and
17 expansion of the private sector through large scale
18 investment and development projects, the Department is
19 authorized to receive and approve applications for the
20 designation of "High Impact Businesses" in Illinois subject
21 to the following conditions:

22 (1) such applications may be submitted at any time
23 during the year;

24 (2) such business is not located, at the time of
25 designation, in an enterprise zone designated pursuant to
26 this Act;

27 (3) (A) the business intends to make a minimum
28 investment of \$12,000,000 which will be placed in
29 service in qualified property and intends to create
30 500 full-time equivalent jobs at a designated
31 location in Illinois or intends to make a minimum
32 investment of \$30,000,000 which will be placed in

1 service in qualified property and intends to retain
2 1,500 full-time jobs at a designated location in
3 Illinois. The business must certify in writing that
4 the investments would not be placed in service in
5 qualified property and the job creation or job
6 retention would not occur without the tax credits
7 and exemptions set forth in subsection (b) of this
8 Section. The terms "placed in service" and
9 "qualified property" have the same meanings as
10 described in subsection (h) of Section 201 of the
11 Illinois Income Tax Act; or

12 (B) the business intends to establish a new
13 electric generating facility at a designated
14 location in Illinois. "New electric generating
15 facility" for purposes of this Section means a
16 newly-constructed electric generation plant or a
17 newly-constructed generation capacity expansion at
18 an existing electric generation plant, including the
19 transmission lines and associated equipment that
20 transfers electricity from points of supply to
21 points of delivery, and for which such new
22 foundation construction commenced not sooner than
23 July 1, 2001. Such facility shall be designed to
24 provide baseload electric generation and shall
25 operate on a continuous basis throughout the year;
26 and shall have an aggregate rated generating
27 capacity of at least 1,000 megawatts for all new
28 units at one site if it uses natural gas as its
29 primary fuel and foundation construction of the
30 facility is commenced on or before December 31,
31 2004, or shall have an aggregate rated generating
32 capacity of at least 400 megawatts for all new units
33 at one site if it uses coal or gases derived from
34 coal as its primary fuel and shall support the

1 creation of at least 150 new Illinois coal mining
2 jobs, or shall use coal gasification or integrated
3 gasification-combined cycle units that generate
4 electricity or chemicals, or both, and shall support
5 the creation of Illinois coal-mining jobs, or shall
6 be a public utility that is owned and operated by
7 any political subdivision or municipal corporation
8 or that is owned by such an entity and operated by
9 any lessee or any operating agent of that entity and
10 supports the creation of Illinois coal-mining jobs,
11 or shall be owned in whole or in part by an electric
12 cooperative, as defined in Section 3.4 of the
13 Electric Supplier Act, and support the creation of
14 Illinois coal-mining jobs, or shall be a State-owned
15 facility and supports the creation of Illinois coal
16 mining jobs. The business must certify in writing
17 that the investments necessary to establish a new
18 electric generating facility would not be placed in
19 service and the job creation in the case of a
20 coal-fueled plant would not occur without the tax
21 credits and exemptions set forth in subsection (b-5)
22 of this Section. The term "placed in service" has
23 the same meaning as described in subsection (h) of
24 Section 201 of the Illinois Income Tax Act; or

25 (C) the business intends to establish
26 production operations at a new coal mine,
27 re-establish production operations at a closed coal
28 mine, or expand production at an existing coal mine
29 at a designated location in Illinois not sooner than
30 July 1, 2001; provided that the production
31 operations result in the creation of 150 new
32 Illinois coal mining jobs as described in
33 subdivision (a)(3)(B) of this Section, and further
34 provided that the coal extracted from such mine is

1 utilized as the predominant source for a new
2 electric generating facility. The business must
3 certify in writing that the investments necessary to
4 establish a new, expanded, or reopened coal mine
5 would not be placed in service and the job creation
6 would not occur without the tax credits and
7 exemptions set forth in subsection (b-5) of this
8 Section. The term "placed in service" has the same
9 meaning as described in subsection (h) of Section
10 201 of the Illinois Income Tax Act; or

11 (D) the business intends to construct new
12 transmission facilities or upgrade existing
13 transmission facilities at designated locations in
14 Illinois, for which construction commenced not
15 sooner than July 1, 2001. For the purposes of this
16 Section, "transmission facilities" means
17 transmission lines with a voltage rating of 115
18 kilovolts or above, including associated equipment,
19 that transfer electricity from points of supply to
20 points of delivery and that transmit a majority of
21 the electricity generated by a new electric
22 generating facility designated as a High Impact
23 Business in accordance with this Section. The
24 business must certify in writing that the
25 investments necessary to construct new transmission
26 facilities or upgrade existing transmission
27 facilities would not be placed in service without
28 the tax credits and exemptions set forth in
29 subsection (b-5) of this Section. The term "placed
30 in service" has the same meaning as described in
31 subsection (h) of Section 201 of the Illinois Income
32 Tax Act; and

33 (4) no later than 90 days after an application is
34 submitted, the Department shall notify the applicant of

1 the Department's determination of the qualification of
2 the proposed High Impact Business under this Section.

3 (b) Businesses designated as High Impact Businesses
4 pursuant to subdivision (a)(3)(A) of this Section shall
5 qualify for the credits and exemptions described in the
6 following Acts: Section 9-222 and Section 9-222.1A of the
7 Public Utilities Act, subsection (h) of Section 201 of the
8 Illinois Income Tax Act; and, Section 1d of the Retailers'
9 Occupation Tax Act; provided that these credits and
10 exemptions described in these Acts shall not be authorized
11 until the minimum investments set forth in subdivision
12 (a)(3)(A) of this Section have been placed in service in
13 qualified properties and, in the case of the exemptions
14 described in the Public Utilities Act and Section 1d of the
15 Retailers' Occupation Tax Act, the minimum full-time
16 equivalent jobs or full-time jobs set forth in subdivision
17 (a)(3)(A) of this Section have been created or retained.
18 Businesses designated as High Impact Businesses under this
19 Section shall also qualify for the exemption described in
20 Section 51 of the Retailers' Occupation Tax Act. The credit
21 provided in subsection (h) of Section 201 of the Illinois
22 Income Tax Act shall be applicable to investments in
23 qualified property as set forth in subdivision (a)(3)(A) of
24 this Section.

25 (b-5) Businesses designated as High Impact Businesses
26 pursuant to subdivisions (a)(3)(B), (a)(3)(C), and (a)(3)(D)
27 of this Section shall qualify for the credits and exemptions
28 described in the following Acts: Section 51 of the
29 Retailers' Occupation Tax Act, Section 9-222 and Section
30 9-222.1A of the Public Utilities Act, and subsection (h) of
31 Section 201 of the Illinois Income Tax Act; however, the
32 credits and exemptions authorized under Section 9-222 and
33 Section 9-222.1A of the Public Utilities Act, and subsection
34 (h) of Section 201 of the Illinois Income Tax Act shall not

1 be authorized until the new electric generating facility, the
2 new transmission facility, or the new, expanded, or reopened
3 coal mine is operational, except that a new electric
4 generating facility whose primary fuel source is natural gas
5 is eligible only for the exemption under Section 51 of the
6 Retailers' Occupation Tax Act.

7 (c) High Impact Businesses located in federally
8 designated foreign trade zones or sub-zones are also eligible
9 for additional credits, exemptions and deductions as
10 described in the following Acts: Section 9-221 and Section
11 9-222.1 of the Public Utilities Act; and subsection (g) of
12 Section 201, and Section 203 of the Illinois Income Tax Act.

13 (d) Existing Illinois businesses which apply for
14 designation as a High Impact Business must provide the
15 Department with the prospective plan for which 1,500
16 full-time jobs would be eliminated in the event that the
17 business is not designated.

18 (e) New proposed facilities which apply for designation
19 as High Impact Business must provide the Department with
20 proof of alternative non-Illinois sites which would receive
21 the proposed investment and job creation in the event that
22 the business is not designated as a High Impact Business.

23 (f) In the event that a business is designated a High
24 Impact Business and it is later determined after reasonable
25 notice and an opportunity for a hearing as provided under the
26 Illinois Administrative Procedure Act, that the business
27 would have placed in service in qualified property the
28 investments and created or retained the requisite number of
29 jobs without the benefits of the High Impact Business
30 designation, the Department shall be required to immediately
31 revoke the designation and notify the Director of the
32 Department of Revenue who shall begin proceedings to recover
33 all wrongfully exempted State taxes with interest. The
34 business shall also be ineligible for all State funded

1 Department programs for a period of 10 years.

2 (g) The Department shall revoke a High Impact Business
3 designation if the participating business fails to comply
4 with the terms and conditions of the designation.

5 (h) Prior to designating a business, the Department
6 shall provide the members of the General Assembly and
7 Illinois Economic and Fiscal Commission with a report setting
8 forth the terms and conditions of the designation and
9 guarantees that have been received by the Department in
10 relation to the proposed business being designated.

11 (Source: P.A. 91-914, eff. 7-7-00; 92-12, eff. 7-1-01;
12 revised 3-7-02.)".